REMARKS

Claims 6-19 and 29-30 are now pending in the application, and claims 1-5 and 20-28 have been cancelled. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claim 7 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Howard (U.S. Pat. No. 6,129,685). This rejection is respectfully traversed.

At the outset, the Applicant submits that the above rejection has been rendered moot by the above amendments, which clarify that the system includes a catheter having a distal tip formed of metallic material that is attracted to a magnet, and a magnet outside the body that applies a magnetic field of sufficient strength to align the sheath's magnetically active element to orient the distal end of the sheath, such that the catheter advances in a direction determined by the magnetic orientation of the distal end of the sheath to deliver the catheter through the sheath to a site near an occlusion. Claim 7 is further amended to clarify that the distal tip (formed of metallic material attracted to a magnet) is oriented by the magnetic field applied by the magnet.

The Applicant notes that the feature of the distal tip being formed of metallic material that is attracted to a magnet is disclosed in ¶ [0031] of the application, and that ¶ [0030] of the application states that the magnetic field orients the distal tip.

The Office Action states on page 2 that Howard discloses a sheath 1103 and a catheter 1105 having a distal end that terminates in a distal tip. However, Howard does not disclose a distal tip on the catheter 1105 (or electrodes 1107 on the side of catheter 1105) that are formed of a metallic material that is attracted to a magnet, or that the

distal tip (formed of metallic material attracted to a magnet) is oriented by the magnetic field applied by the magnet. The claimed system allows the sheath's magnetically responsive element to be oriented by the magnetic field, to deliver the catheter through the sheath to a site near an occlusion, and the distal tip to be oriented by the magnetic field for positioning the tip relative to the occlusion. (See ¶ [0030] of the application). As such, the Applicant submits that claim 7 is not anticipated by Howard for at least these reasons.

REJECTION UNDER 35 U.S.C. § 103

Claims 6, 13 and 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemelson (U.S. Pat. No. 5,845,646). This rejection is respectfully traversed.

The Office Action contends on page 3 that Lemelson discloses an energy source coupled to a distal tip of a catheter body, and a magnetically active element disposed on the catheter body. However, Lemelson only states that the "walls of the catheter include a plurality of compartments which include ferromagnetic materials or strong magnets or, more preferably, wound electromagnets." (Lemelson, col. 13, ll. 62-64). With the ferromagnetic walls, Lemelson states that "the catheter can be adjusted by varying the direction and magnitude of the externally applied magnetic field, thus pulling the catheter." (See Lemelson, col. 13, ll. 66, col. 14, ll. 2). Assuming that the Lemelson catheter worked for its intended purpose of pulling the catheter within the patient's body, there would be no reason to depart from Lemelson's teachings, or to modify Lemelson to have a distal tip formed of a metallic material that is attracted to a magnet.

The distal tip 96 of Lemelson's catheter in Fig. 11 is only described in Lemelson as a "distal end of the catheter to provide an enhanced ultrasonic image." (Lemelson, col. 14, ll. 31-32). Lemelson does not teach or suggest a distal tip formed of a metallic material, which is attracted to a magnet, or that the distal tip (formed of metallic material attracted to a magnet) is oriented by an applied magnetic field. This feature distinguishes claim 6 over Lemelson, and allows the distal tip that is coupled to an energy source for delivering heat to an occlusion to be oriented by the magnetic field, for positioning the distal tip relative to the occlusion. (See ¶ [0030] of the application). As such, the Applicant submits that claim 6 is not obvious over Lemelson for at least these reasons.

REJECTION UNDER 35 U.S.C. § 103

Claims 8-12, 14-16, 29 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemelson (U.S. Pat. No. 5,845,646) in view of substitution of known equivalents. This rejection is respectfully traversed.

The Office Action notes on page 4 that Lemelson does not disclose using radio frequency, laser energy applied to an element, or resistance heating of an element, but contends that it would have been obvious to modify the device of Lemelson by substitution of the above, since it has been held that selection of a known component is obvious when it does not produce a new or unexpected result.

The Applicant submits that claims 8-12, 14-16, 29 and 30 ultimately depend from claim 6, which the Applicants believe to be allowable in view of the present amendments regarding the distal tip formed of a metallic material that is attracted to a magnet. Thus, the Applicant submits that claims 8-12, 14-16, 29 and 30 are also allowable by virtue of their dependence from claim 6.

The Applicants further submit that the use of radio frequency, laser energy applied to an element, or resistance heating of an element in connection with the claimed distal tip formed of a metallic material attracted to a magnet is not obvious, because in addition to providing delivery of heat to the distal tip, the claimed distal tip (formed of metallic material attracted to a magnet) produces the new result of orienting the tip to thereby position the distal tip relative to the occlusion. Thus, the Applicant submits that claims 8-12, 14-16, 29 and 30 are not obvious and further allowable for at least these reasons.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 726-7500.

Respectfully submitted,

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